

AO 441 (Rev. 8/01) Third Party Summons in a Civil Action

## UNITED STATES DISTRICT COURT

Southern

District of

New York

## PLAINTIFF

Selim Zherka,

## V. DEFENDANT AND THIRD PARTY PLAINTIFF

Philip Amicone,

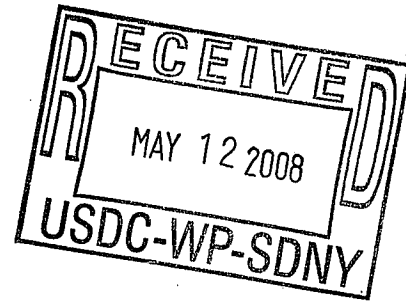
THIRD PARTY SUMMONS IN A  
CIVIL ACTION

Case Number: 07 Civ. 9618 (CLB)(GAY)

## V. THIRD PARTY DEFENDANT

The Guardian News, Inc. and Richard Blassberg.

To: Name and address of Third Party Defendant

The Guardian News, Inc.  
2 William Street  
White Plains, NY 10601Richard Blassberg  
2 William Street  
White Plains, NY 10601**YOU ARE HEREBY SUMMONED** and required to serve on

## PLAINTIFF'S ATTORNEY (name and address)

Jonathan Lovett, Esq.  
Lovett & Gould, LLP  
222 Bloomingdale Road  
White Plains, New York 10605  
(914) 428-8401DEFENDANT AND THIRD-PARTY PLAINTIFF'S ATTORNEY  
(name and address)Kevin J. Plunkett, Esq.  
DeBello Donnellan Weingarten Wise & Wiederkehr, LLP  
One North Lexington Avenue  
White Plains, New York 10601  
(914) 681-0200

an answer to the third-party complaint which is served on you with this summons, within 20 days after the service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default may be taken against you for the relief demanded in the third-party complaint. There is also served on you with this summons a copy of the complaint of the plaintiff. You have the option of answering or not answering the plaintiff's complaint, *unless* (1) this is a case within Rule 9(h) Federal Rules of Civil Procedure, *and* (2) the third-party plaintiff is demanding judgment against you in favor of the original plaintiff under the circumstances described in Rule 14(c) Federal Rules of Civil Procedure, in which situation you are required to make your defenses, if any, to the claim of plaintiff as well as to the claim of the third-party plaintiff. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON,

CLERK

A handwritten signature in dark ink, appearing to read "J. Michael McMahon".

(By) DEPUTY CLERK

DATE

5-12-08

AO 441 (Rev. 8/01) Third Party Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the third-party defendant. Place where served:  <input type="checkbox"/> Left copies thereof at the third-party defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:  <input type="checkbox"/> Returned unexecuted:  <input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SELIM ZHERKA,

Plaintiff,

-against-

PHILIP AMICONE, individually, and PHILIP  
AMICONE in his capacity as Mayor of the City of  
Yonkers, New York,

Defendant.

PHILIP AMICONE,

Third-Party Plaintiff,

-against-

THE GUARDIAN NEWS, INC. and RICHARD  
BLASSBERG,

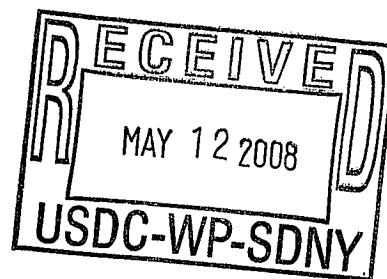
Third-Party Defendants.

ECF Case

07 Civ. 9618 (CLB)(GAY)

THIRD PARTY COMPLAINT

Jury Trial Demanded



Third-Party Plaintiff Philip Amicone ("Amicone"), by and through his attorneys DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, as and for his Third-Party Complaint against The Guardian News, Inc. ("Guardian News") and Richard Blassberg ("Blassberg"), alleges as follows:

Nature of the Case

1. Amicone brings this third-party action against Guardian News and Blassberg to recover damages incurred as a direct result of, *inter alia*, certain false and defamatory statements made by Guardian News and Blassberg.

**The Parties**

2. Amicone is, and at all relevant times was, an individual residing in the State of New York and the duly elected Mayor of the City of Yonkers, New York.

3. Upon information and belief, Guardian News is, and at all relevant times was, a corporation organized and existing under the laws of the State of New York with a principal place of business located at 2 William Street, White Plains, New York 10601. Guardian News is the publisher of The Westchester Guardian, a weekly periodical which purports to “cover news and events relevant to residents and businesses all over Westchester County.”

4. Upon information and belief, Blassberg is, and at all relevant times was, an individual residing in the State of New York. Blassberg is also Editor-in-Chief of The Westchester Guardian.

**Jurisdiction and Venue**

5. Jurisdiction is vested in this Court under 28 U.S.C. § 1367(a) in that the claims asserted in the third-party action are so related to claims in the action within which original jurisdiction exists such that said claims form part of the same case or controversy under Article III of the United States Constitution.

6. This Court has jurisdiction over Guardian News because Guardian News: (i) is licensed to do business in the State of New York; (ii) transacts business in the State of New York; (iii) expressly consented to jurisdiction in the State of New York; and (iv) is otherwise subject to jurisdiction in the State of New York pursuant to CPLR 301 and 302.

7. This Court has jurisdiction over Blassberg because Blassberg: (i) resides in the State of New York; (ii) expressly consented to jurisdiction in the State of New York; and (iii) is otherwise subject to jurisdiction in the State of New York pursuant to CPLR 301 and 302.

8. Venue is proper in this judicial district under 28 U.S.C. § 1391 because Guardian News and Blassberg expressly consented to venue in this judicial district and because a substantial part of the events giving rise to the claims herein have occurred in this judicial district

**As and for a First Cause of Action**  
**(Libel)**

9. On November 1, 2007, Guardian News and Blassberg published an article in The Westchester Guardian regarding Amicone, entitled "It's Still A Tale of Two Cities...Seriously In Need of Change." A true and correct copy of this article is annexed hereto as Exhibit A.

10. The November 1, 2007 edition of The Westchester Guardian provides, in pertinent part, as follows:

**Consider:**

People now realize the Phil Amicone is a real tyrant, an oppressive politician who cannot accept criticism.

He is no friend of the City's public employees. He called Yonkers teachers "terrorists" for picketing for higher wages. He refused new police and fire department contracts for 2 ½ years.

He is a huge hypocrite. Pretending to be "holier than thou", he actually frequents strip clubs; even had a "lap dance" from a girl by the name of Sassy.

It's time for honesty and integrity; it's time for Dennis Robertson.

Ex. A (emphasis added).

11. Guardian News and Blassberg knew that certain statements published in the November 1, 2007 edition of The Westchester Guardian were false and defamatory.

12. Guardian News and Blassberg published these statements with actual malice (i.e., despite knowing that these statements were false and/or in reckless disregard for the truth concerning these statements).

13. Guardian News and Blassberg acted in a grossly irresponsible manner without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties.

14. The false statements made by Guardian News and Blassberg in the November 1, 2007 edition of The Westchester Guardian constitute libel.

15. As a direct and proximate result of the actions described herein, Amicone has suffered special damages in the form of damage to his personal, professional, occupational and political reputation.

16. The amount of special damages incurred by Amicone will be proven at trial.

**As and for a Second Cause of Action**  
**(Libel *Per Se*)**

17. Amicone repeats and realleges each and every allegation contained in paragraphs 1 through 16 above with the same force and effect as if fully set forth herein.

18. Guardian News and Blassberg knew, or should have known, that certain statements published in the November 1, 2007 edition of The Westchester Guardian were false and defamatory.

19. Guardian News and Blassberg published these statements with the intent to disparage and damage Amicone's personal, professional, occupational and political reputation.

20. The false statements published by Guardian News and Blassberg in the November 1, 2007 edition of The Westchester Guardian constitute libel *pe se*.

21. As a direct and proximate result of the actions described herein, Amicone has suffered damages in an amount to be proven at trial.

WHEREFORE, Amicone prays for relief as follows:

- (i) On the First Cause of Action, for damages against Guardian News and Blassberg in an amount to be determined at trial;
- (ii) On the Second Cause of Action, for damages against Guardian News and Blassberg in an amount to be proven at trial; and
- (iii) For such other and further relief as the Court deems just and proper.

Dated: White Plains, New York  
May 12, 2008

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP

By: 

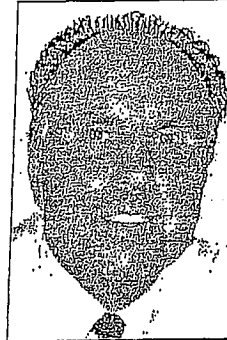
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1 North Lexington Avenue  
White Plains, New York 10601  
(914) 681-0200  
Attorneys for Defendant/Third-Party Plaintiff  
Philip Amicone

## **EXHIBIT A**



Westchester's Most Influential Weekly.

## The Good:



## The Bad:



and

## The Ugly:

[illegible]

UNITED STATES DISTRICT COURT  
UNITED STATES OF AMERICA

V.

PREFACE KNOWN AND DESCRIBED AS (1)  
OFFICES OF THE CITY OF MT. VERNON  
DEPARTMENT OF PUBLIC WORKS AT 140  
NORTH WINDHAM AVENUE, MT. VERNON, NEW  
YORK 11901 AND (2) SPECIFIC LOCATIONS  
AT MOUNT VERNON CIVIC HALL  
AT A ROOSEVELT SQUARE, MOUNT VERNON,  
NEW YORK 11901.

THE WESTCHESTER GUARDIAN

THURSDAY, NOVEMBER 1, 2007

# Sandy Annabi Strongly Endorses Dennis Robertson

## Tells District Two Constituents "If We Elect Dennis As Our Next Mayor We Will Finally Get Our Fair Share From The City of Yonkers."

Dear Friends and Neighbors,

For the past several years, as your City Council Representative, I have steadfastly fought for your best interests. That is why I am writing to you now, to urge you to go to the polls on Election Day, Tuesday, November 6, and vote for Dennis Robertson for Mayor of Yonkers.

With Dennis Robertson as our Mayor, we, the residents of District Two, will finally get the level of service from the City of Yonkers we have long deserved. Dennis has demonstrated by his conduct on the City Council, that he has the best interests of the residents of Southwest Yonkers at heart.

Dennis Robertson and I have a great working relationship and share the same views on many issues that effect the quality of life of our residents. Dennis Robertson is hard-working and dedicated. He listens and, most importantly, he will help me to help you. This is a very important election for all of Yonkers, but most important for us, the People of District Two. If we elect Dennis as our next Mayor, we will finally get our fair share from the City of Yonkers.

Best regards,  
Sandy



Yonkers City Council Member  
Sandy Annabi

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## THE WESTCHESTER GUARDIAN

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Westchester's Most Influential Weekly

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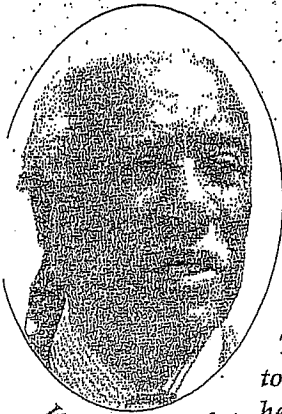
THURSDAY, NOVEMBER 1, 2007

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# The Advocate

Richard Blassberg

## It's Still A Tale Of Two Cities... Seriously In Need of Change!



*It's all about me*

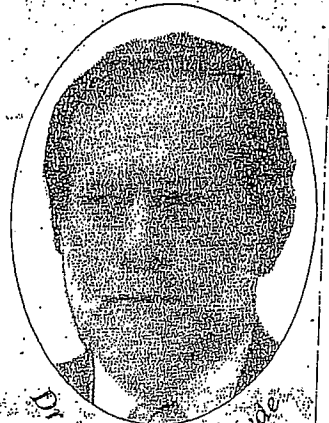
### Consider:

Ernie Davis is a very tired act. The truth is, he is very frightened to give up control for fear that he will be more vulnerable to criminal apprehension.

Ernie has long ago stopped caring about what is best for the families of Mount Vernon; and, now, his poor judgment, his self-serving conduct, and his broken promises, have caught up with him.

Things have grown so bad in many areas of the city, crime so rampant, taxes so high, the quality of life so desperate, that some families have moved back to the Bronx.

It is time for positive change; it's time for Clinton Young.



*Dr. Jekyll & Mr. Hyde*

### Consider:

People now realize that Phil Amicone is a real tyrant, an oppressive politician who cannot accept criticism.

He is no friend of the city's public employees. He called Yonkers teachers "terrorists" for picketing for higher wages. He refused new police and fire department contracts for 2 1/2 years.

He is a huge hypocrite. Pretending to be "holier than thou", he actually frequents strip clubs; even had a "lap dance" from a girl by the name of Sassy.

It's time for honesty and integrity; it's time for Dennis Robertson.